

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FERRING B.V.,

Plaintiff,

-against-

FERA PHARMACEUTICALS, LLC, PERRIGO
COMPANY, PERRIGO COMPANY PLC, PERRIGO
COMPANY OF TENNESSEE, and PERRIGO NEW
YORK, INC.,

Defendants.

ORDER

13-CV-4640 (SJF)(AKT)

**FILED
CLERK**

7/31/2015 3:49 pm

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

FEUERSTEIN, J.

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Before the Court is Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation, dated July 6, 2015 [Docket Entry No. 133 ("Report")] recommending that Fera's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) and to strike pursuant to Federal Rule of Civil Procedure 12(f) [Docket Entry No. 95 ("Fera Motion")] be denied. No objections to the Report have been filed. For the following reasons, the Court adopts the Report in its entirety.

Any portion of a report and recommendation on a dispositive matter to which a timely objection has been made is reviewed by the district court *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. *See Thomas v. Arn*, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y.

2007), *aff'd*, 305 F. App'x 815 (2d Cir. Jan. 9, 2009); *Baptichon v. Nev. State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. Apr. 13, 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No objections to Magistrate Judge Tomlinson's Report have been filed and the time to file objections has passed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts the Report in its entirety. For the reasons set forth in the Report, the Fera Motion is denied in its entirety.

SO ORDERED.

s/ Sandra J. Feuerstein
Sandra J. Feuerstein
United States District Judge

Dated: July 31, 2015
Central Islip, New York